

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

MWK RECRUITING, INC.

Plaintiff,

v.

EVAN P. JOWERS, YULIYA  
VINOKUROVA, ALEJANDRO VARGAS,  
and LEGIS VENTURES (HK) COMPANY  
LIMITED (aka Jowers / Vargas),

Defendants.

Civil Action No. 1:18-cv-00444

EVAN P. JOWERS

Counterclaimant,

v.

MWK RECRUITING, INC., ROBERT E.  
KINNEY, MICHELLE W. KINNEY,  
RECRUITING PARTNERS GP, INC.,  
KINNEY RECRUITING LLC, COUNSEL  
UNLIMITED LLC, and KINNEY  
RECRUITING LIMITED

Counter-defendants.

UNOPPOSED MOTION FOR LEAVE TO FILE SECOND AMENDED ANSWER,  
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS

Pursuant to Fed. R. Civ. P. 15(a)(2), Evan P. Jowers (“**Jowers**” or “**Defendant**”) files this Unopposed Motion for Leave to file the Second Amended Answer, Affirmative Defenses, and Counterclaims attached to this Motion as **Exhibit A** in response to the Second Amended Complaint [ECF No. 80] filed by MWK Recruiting Inc., now known as Counsel Holdings Inc. (“**MWK**”). Jowers has also asserted counterclaims against MWK, Robert E. Kinney (“**Kinney**”)

and Michelle W. Kinney, individually, and Recruiting Partners GP, Inc., Kinney Recruiting LLC, Counsel Unlimited LLC, and Kinney Recruiting Limited (collectively, the “**Kinney Entities**”).

MWK filed its Second Amended Complaint on March 25, 2019. [ECF Doc. No. 80.] Jowers moved to dismiss the Complaint on April 17, 2019. [ECF Doc. No. 84.] On July 29, 2019, the Court entered an Order granting in part and denying in part Jowers’s Motion to Dismiss. [ECF Doc. No. 87.] On August 19, 2019, Jowers filed his Answer to MWK’s Second Amended Complaint and asserted claims against MWK and the Kinney Entities. [ECF Doc. No. 90.] On September 9, 2019, Jowers filed an Amended answer asserting counterclaims against MWK and the Kinney Entities. [ECF Doc. No. 96.] The current deadline to file a motion for leave to amend pleadings is January 17, 2020. [ECF Doc. No. 98.]

Fed. R. Civ. P. 15(a)(2) provides that, in most cases, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). “The Court should freely give leave when justice so requires.” *Id.* The decision to grant a motion for leave to amend a pleading is in the discretion of the district court. *See Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 872 (5th Cir. 2000). “The district court’s discretion is limited, however, by Rule 15(a). ... In the context of motions to amend pleadings, ... Fed. R. Civ. P. 15(a) evinces a bias in favor of granting leave to amend.” *Id.* (internal quotation marks and citations omitted). “Unless there is a substantial reason to deny leave to amend, the discretion of the district court is not broad enough to permit denial.” *Id.* (internal quotation marks omitted).

Pursuant to Fed. R. Civ. P. 15(a)(2), Jowers requests leave to amend his pleading for the sole purpose of making minor alterations to his factual allegations regarding the date of his separation from the Kinney Entities. The changes to his pleading are minimal, affecting only two

sentences in the pleading. In fact, MWK and the Kinney Entities' pending Answer to Jowers's counterclaims generally agrees with the factual allegations set forth in the revised allegations. A redline of Jowers's proposed changes, which occur only in paragraphs 54 and 55 of the Counterclaim, is attached as **Exhibit B**. Because MWK and the Kinney Entities have previously agreed with the basic date of separation that Jowers wishes to clarify and allege, there is no substantial reason to deny leave to amend in this case. There is no change to the causes of action asserted in Jowers's pleading. Further, MWK and the Kinney Entities do not oppose this Motion for Leave to Amend.

Jowers respectfully requests that the Court enter the Unopposed Order submitted contemporaneously with this motion and grant leave for Jowers to file his proposed Second Amended Answer, Affirmative Defenses, and Counterclaims, which is attached to this Motion as Exhibit A.

Dated: January 17, 2020.

Respectfully submitted,

By: /s/ James C. Bookhout

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**COUNSEL FOR DEFENDANT AND  
COUNTERCLAIMANT EVAN P. JOWERS**

**CERTIFICATE OF CONFERENCE**

I hereby certify that, on January 17, 2020, I conferred via email with Robert Kinney, counsel for the MWK Entities, regarding the subject matter of this Motion, and he stated that he was not opposed to the relief requested.

/s/ James C. Bookhout

James C. Bookhout

**CERTIFICATE OF SERVICE**

I hereby certify that, on January 17, 2020, a true and accurate copy of the foregoing document was served via the Court's CM/ECF facilities and via email.

/s/ James C. Bookhout

James C. Bookhout